

**Compliance Guide for
MSHA's Modified Regulations on
Training and Retraining of Miners**



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Definition of an "Experienced Miner"

1. How does the new training rule change the definition of an "experienced miner"?

The old rule required a miner to receive new miner training within 12 months or to accumulate 12 months of mining experience within the previous 36 months to be considered an "experienced miner." The new rule requires that a miner both receive new miner training and have 12 months of mining experience to qualify as an "experienced miner."

2. Can the miner then lose that status as an "experienced miner" by being away from mining for a period of time?

No. Once a miner has received new miner training and has accumulated 12 months of mining experience, MSHA considers that miner to be experienced for life for training purposes. If the miner is away from mining for more than 36 months after receiving new miner training, and before accumulating 12 months of mining experience, the new rule requires that miner to repeat new miner training. After taking new miner training the miner will then have another 36 months in which to finish accumulating the 12 months of mining experience needed to be an "experienced miner" for training purposes.

Also, once a miner is experienced and leaves the mining industry for more than 5 years and then returns, the miner must receive at least 8 hours of experienced miner training.

3. What training is required for a newly-employed miner who has not gained "experienced miner" status?

If a newly-employed miner has completed new miner training within 36 months of starting work at a different mine, the miner must receive "experienced miner" training. If the miner has not completed new miner training within 36 months, however, then the miner must repeat new miner training at the different mine. After completing this initial "experienced miner" or "new miner"

training, the miner is then subject to all other training required for "experienced miners" at the mine.

For example, suppose a new miner receives new miner training and works 10 consecutive months in mining. Then, the miner leaves mining and works in an industry outside of mining for the next 3 years. If the miner returns to work in the mining industry, the new training rule requires that the miner receive new miner training because more than 36 months had passed since the miner had received this training and the miner had not accumulated 12 months of mining experience. Once the miner works an additional 2 months, the miner will be considered an "experienced miner" for life for training purposes.

4. Can the experience be either surface or underground?

An experienced underground miner must have at least 12 months of underground mining experience; and an experienced surface miner must have at least 12 months of surface mining experience.

5. Can a miner accumulate part of the mining experience underground and part on the surface to total 12 months?

No. To be an experienced underground miner, all 12 months of experience must be underground; to be an experienced surface miner, all 12 months of experience must be on the surface.

6. Can a miner be both an experienced underground miner and an experienced surface miner?

Yes, if that miner has completed the training and experience requirements for both underground and surface miners.

7. How long does a miner have to obtain the 12 months of mining experience?

There is no time limit for obtaining the 12 months of mining experience.

8. How long does an independent contractor working intermittently at mine sites have to gain the 12 months of mining experience?

There is no time limit for obtaining the 12 months of mining experience.

9. How do I track the accumulation of experience?

The rule has no specific requirements for tracking or recording the accumulation of experience. It is your responsibility to determine the miner's experience based on the miner's work and training history.

10. Does MSHA give the miner credit for work experience not gained at a mine?

Yes, under specific conditions. Surface maintenance and service contractors often have significant trade experience in environments similar to surface mines or the surface areas of underground mines. We will allow this trade experience to count towards satisfying the requirement for 12 months of surface mining experience. These service or maintenance contractors, however, must still receive new miner training.

For example, if a contractor hired to service a dozer has 12 months of experience servicing dozers in environments similar to mining, such as construction sites, that contractor will have satisfied the experience requirement and would only need to receive new miner training to be an "experienced" surface miner for training purposes.

11. Who determines whether experience should be credited?

You are responsible for determining to what extent the contract worker's past experience should be credited based on a reasonable assessment of the contract worker's work history. If you need additional guidance in determining a person's qualifications, contact us for assistance.

12. On the effective date of the new rule, what is the status of miners who are already considered "experienced" under the old rule?

If a miner is an "experienced miner" under the old rule on February 3, 1999, the effective date of the new rule, we will consider that miner to be an "experienced miner" for life under the new rule.

13. What training must new miners receive to become "experienced miners," and who can give the training?

Like the old rule, the new miner training must be approved by MSHA and given by an MSHA-approved instructor. As in the past, this training can be provided by many sources, including the mine operator, the State, universities, trade associations, and independent trainers.

14. Miners, particularly supervisors, sometimes conduct part 48 training. Can I credit their time teaching a required course as meeting the requirement for taking that course?

Yes. For example, if a miner conducts annual refresher training in health, prevention of accidents, and electrical hazards, you can credit that miner with having taken those courses.

15. Who can sign the Certificate of Training (MSHA Form 5000-23) for a miner who conducts the training?

Any person responsible for the training, including the instructor, can sign the 5000-23 form.

16. Are there any changes in the new rule that will affect completing the MSHA Form 5000-23?

Yes. The new rule redefines experienced miner training from "Training of newly employed experienced miners; minimum courses

of instruction" to "Experienced miner training." On the existing 5000-23 form, continue using "Newly Employed Experienced Miner" for all "Experienced miner training."

Also, one new course was added that is not listed in item 5 on the 5000-23 form which lists the separate subjects for partial training purposes. If you conduct partial training you can write in "Emergency medical procedures" under other.

In the near future, we will print new 5000-23 forms with these changes. However, existing 5000-23 forms can be used until the supplies are depleted.

17. Are we going to require you to revise and resubmit existing alternate 5000-23 forms for approval?

No. However, if you choose to do so you may.

Training of Supervisors

18. What impact does this rule have on the training of supervisors?

The new rule requires all supervisors to be trained, eliminating the part 48 training exemption for State-certified supervisors. The rule primarily affects underground coal supervisors.

19. Exactly what training must supervisors now have under the new rule?

The new rule requires that all supervisors be treated like other miners for training purposes. Accordingly, depending on their exposure to mine hazards and their duties, supervisors must receive either comprehensive training or hazard training. Comprehensive training includes "experienced miner," task, and annual refresher training.

20. Under what circumstances would a supervisor not be required to receive comprehensive training?

Supervisors who are generally office workers and are not regularly exposed to mine hazards would not need comprehensive

training. Because their exposure to mine hazards is minimal, hazard training is both appropriate and sufficient.

21. For supervisors who have not been required to receive part 48 training, how long do they have to complete annual refresher training after the rule is published?

Supervisors have until the end of October, 1999 (one year) to complete the initial annual refresher training. The month in which the supervisor completes the 8 hours of initial annual refresher training then becomes the new anniversary date for subsequent refresher training. For example, if a supervisor completes the 8 hours of annual refresher training in January, 1999, that supervisor will have to complete another 8 hours of annual refresher training by the end of January, 2000.

22. Do supervisors have to take training under both part 48 and parts 75 or 77?

Yes. Both annual training requirements will be in effect until October 6, 1999. This will require a State-certified supervisor to receive annual refresher training under part 48, as well as annual training for certified persons under existing parts 75 or 77.

23. Does this mean that these supervisors will have to receive the same training twice?

No. MSHA will credit training taken under part 48 to satisfy the requirements of parts 75 or 77 and vice versa during this transition period. For example, you can credit the annual instruction in methane measurement and oxygen deficiency testing taken under § 75.161(a) toward satisfying the part 48 annual refresher training requirement under § 48.8(b)(10) Mine Gases.

Additional Training

24. What additional training does the new rule require?

The new rule requires four new courses for "experienced miner" training. These four new courses are in addition to the seven courses already required for newly employed experienced miners under current regulations. The new courses are—

- (1) prevention of accidents,
- (2) emergency medical procedures,
- (3) health, and
- (4) health and safety aspects of tasks.

Miners who are required to take new task training do not have to take the course on health and safety aspects of tasks.

The new rule also changes the heading for this training to "experienced miner training." This revised heading clarifies and emphasizes that, in addition to those newly employed at the mine, other kinds of "experienced miners" must take this training.

25. What are the different kinds of "experienced miners" who must take the "experienced miner training"?

"Experienced miners" are miners who are—

- (1) Newly employed by the operator,
 - (2) Transferred to the mine,
 - (3) Transferred from surface to underground or vice versa, and
 - (4) Returning to mining after an absence of more than 12 months.
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26. Are there any minimum time requirements for "experienced miner training" or individual courses?

With one exception, there are no time requirements for "experienced miner training" or any individual course, including

the four new courses. The exception is for miners returning to mining after an absence of 5 years or more. After such a long absence, you must provide the returning "experienced miner" with at least 8 hours of "experienced miner training." The new rule, like the current rule, does not specify the duration of instruction on any individual course.

27. Does this mean that I can give as much of this training as I want?

Yes, to some extent. You have the flexibility to determine what amount of training is appropriate. The new rule, however, requires that you vary the instruction time and content of each course as is necessary to meet the training needs of the "experienced miner." It is your responsibility to reasonably assess the training needs of the "experienced miners." It is highly likely that these miners will have varying familiarity with aspects of their new assignments, such as the mining methods used, the environmental conditions at the mine, the tasks they are going to perform, and the mine's safety and health procedures.

28. Is there any other new training required by the rule?

Yes. When a miner has been absent from the mine for 12 months or less, the new rule requires that you inform the miner about major changes affecting safety or health that have occurred at the mine during the absence. You must provide the returning miner this information before the miner starts work.

29. What is a "major" change?

A major change is one which you know, or should know, could endanger the miners' health or safety.

30. What does "absence" mean here?

An absence is being away from the mine for any period of time for any reason including illness, vacation, work stoppage, downtime, or off shift. Events that are likely to adversely affect miners' safety or health can occur quickly and most are unrelated to the length or cause of the absence.

31. Does this training need to be conducted by an approved instructor?

No. You may designate any person knowledgeable of the changes to give this training. We expect that, usually, the supervisor or other miner-in-charge will tell the miners this information at the start of each shift. Also, there is no recordkeeping required for this training.

Removal of Duplication

32. What training requirements are eliminated, and where are they otherwise covered?

The new rule eliminates some duplicate regulatory text. This removal of duplicate text, however, does not substantively alter or eliminate any training requirements.

<u>Training Requirements Removed</u>	<u>Covered in 30 CFR 48</u>
§ 75.161(a) for methane measurement and oxygen deficiency testing	§ 48.8(b)(10) (Mine gases)
§ 75.161(a) for roof and rib control and ventilation plans	§ 48.8(b)(4) (Roof or ground control and ventilation plans)
§ 75.161(c) for self-contained self-rescue devices	§ 48.8(b)(8) (Self-rescue devices and respiratory devices)
§ 77.107-1 is revised by deleting the reference to principles of mine rescue	§ 48.28(b)(3) (Escape and emergency evacuation plans; firewarning and firefighting)

Effective Dates

33. What are the effective dates of the rule?

There are three effective dates for the rule.

Effective **October 6, 1998**, publication date of final rule:

- A supervisor who is certified under an MSHA-approved State certification program and who is employed as an underground or surface miner will be considered an "experienced miner" for training purposes.
- The new rule establishes October, 1999, as the anniversary date for annual refresher training of supervisors who were previously exempt from part 48 training. These supervisors must complete annual refresher training under part 48 by the end of October, 1999.

Effective **February 3, 1999**, 120 days after the rule was published:

- Any miner who is considered an "experienced miner" under the old rule will be considered an "experienced miner" for training purposes under the new rule.
- You must have modified your training plans to include the four new required courses in "experienced miner training."
- "Experienced miner training" must conform to the provisions in the new rule.

On **October 6, 1999**, 12 months after the rule was published:

- Revised §§ 75.161 and 77.107-1 become effective.
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